

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**CHARLESTON DIVISION**

IN RE: ETHICON, INC.,  
PELVIC REPAIR SYSTEM  
PRODUCTS LIABILITY LITIGATION

MDL NO. 2327

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THIS DOCUMENT RELATES TO ALL CASES

**APPLICATION OF BRYAN F. AYLSOCK  
FOR APPOINTMENT TO THE PLAINTIFFS' STEERING COMMITTEE**

Bryan F. Aylstock, pursuant to Case Management Order No. 1, respectfully files this application for appointment as Co-Lead Coordinating Counsel.<sup>1</sup> Bryan Aylstock is willing and available to serve as a member of the Plaintiffs' Steering Committee, has the ability to work cooperatively with all parties, and has the requisite professional experience and skill to assist in the orderly advancement of this litigation.<sup>2</sup>

Since the inception of this litigation, Bryan Aylstock, together with Henry Garrard, III, Fred Thompson and proposed Liason Counsel, has actively sought to coordinate with other plaintiff's counsel regarding the Trans-Vaginal Mesh (TVM) litigation. Further, Mr. Aylstock advocated for the creation of this MDL and for transfer to this Court, and argued at the hearing before transfer and consolidation by the JPML to this Court.

The TVM litigation is not new to Mr. Aylstock nor to the members of his law firm. Mr. Aylstock and his firm have actively litigated TVM cases for several years and have previously resolved a number of them. To date, Mr. Aylstock has personally deposed a significant number of key Ethicon corporate witnesses, including (1) Catherine Beath, Ethicon's corporate designee for regulatory matters and Director of Quality and Regulatory Affairs for Ethicon, (2) Jennifer Paine, Ethicon's Vice President of Regulatory Affairs, (3) Colin Yuill, Ethicon's corporate

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<sup>1</sup> The undersigned references the position of "Plaintiffs' Coordinating Co-Lead Counsel" as set forth and described in "Plaintiffs' Proposed Counsel Organizational Structure" previously submitted to the Court. A separate application for Ms. Renee Baggett, also a partner in the law firm of Aylstock, Witkin, Kreis and Overholtz, is being submitted contemporaneously.

<sup>2</sup> Bryan Aylstock is counsel of record in over 100 cases currently pending before Your Honor, and additional cases are pending transfer by the JPML.

designee on certain manufacturing issues, (4) Margaret D'Aversa, Ethicon's Director of Biosurgical Research and Development, (5) Sungyoon Rha, Ethicon's Quality Engineer, and (6) Zenobia Walji, Ethicon's Worldwide Director of Strategic Planning. In addition to these key individuals, Mr. Aylstock has also assisted in deposing numerous other of Ethicon's corporate witnesses.

Mr. Aylstock has personally reviewed thousands of internal Ethicon documents, familiarized himself with the medical literature on mesh products, and is integrally involved in the development of experts in the field of regulatory affairs, urogynecology, pathology and material sciences. Moreover, Mr. Aylstock has actively participated in TVM planning sessions with both plaintiff and defense counsel and has personally worked with lead counsel for Ethicon in the context of this and other litigation in a cooperative manner. Mr. Aylstock and other members of his firm have been asked to co-chair or present at a number of continuing legal education conferences devoted in whole or in part to the TVM litigation. Most recently, Mr. Aylstock has been asked to make a presentation at the upcoming TVM litigation group meeting for the American Association for Justice Annual Conference in July 2012.

Mr. Aylstock understands the importance of cooperating with his colleagues, both from the plaintiff and defense bars. Much of his success is a direct result of his ability to negotiate and to cooperate with others. For example, he had the honor of serving as co-lead counsel in *In re: Avandia Marketing Sales Practices And Products Litigation*, MDL 1871, overseen by the Honorable Cynthia M. Rufe. In that capacity, Mr. Aylstock organized the Avandia PSC and also served as co-chair of the discovery committee and the administrative committee. He also personally conducted many of the key Avandia depositions, including corporate representatives for marketing and the head of regulatory affairs. He also handled nearly all of the oral and written arguments relating to various discovery issues that arose before the late Special Master Jerome Shestack.<sup>3</sup> Mr. Aylstock was able to work cordially and cooperatively with all counsel involved, including with his counterparts on the defense side of the case, which ultimately lead to the resolution of approximately 60,000 Avandia cases through the MDL process. Most

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<sup>3</sup> Mr. Shestack's endorsement of Mr. Aylstock's efforts in the Avandia MDL are contained of the letter attached hereto as Exhibit A.

recently, Judge Rufe appointed Mr. Aylstock to the Court's Advisory Committee and to the Avandia Fee Committee for the purpose of assisting the Court in the successful conclusion of the Avandia MDL, and he continues to serve in that capacity today.

Mr. Aylstock earned a Bachelor of Arts degree from the University of North Florida in 1992 (magna cum laude), and graduated number one in his law school section at the University of Florida in May 1995. Following law school, he worked in the Honors Program at the United States Department of Justice in Washington, D.C., and then served as a judicial clerk for the Honorable Roger Vinson, the former Chief Judge for the United States District Court, Northern District of Florida.

Mr. Aylstock founded his firm in 2001, which is now comprised of 15 attorneys and 60 staff members who have directly handled the claims of over 10,000 clients over the past 11 years. Mr. Aylstock is presently licensed to practice before all state and federal courts in Florida, Mississippi and Alabama, in addition to numerous other courts.<sup>4</sup> The vast majority of Mr. Aylstock's legal career has been focused on the representation of individuals injured as a result of defective pharmaceutical drugs and medical devices.

Because of Mr. Aylstock's experience in complex litigation, he has garnered the administrative and organizational skills that will be useful in the coordination of the large number of cases that are likely to become part of the MDLs before this Court.

Date: 3/30/2012

Respectfully Submitted,

/s/Bryan F. Aylstock  
Bryan Frederick Aylstock  
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<sup>4</sup> A copy of a Certificate of Good Standing for Mr. Aylstock is attached as Exhibit B.

**CERTIFICATE OF SERVICE**

I hereby certify that on March 30, 2012, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the CM/ECF participants registered to receive service in this MDL.

/s/Bryan F. Aylstock  
Bryan Frederick Aylstock  
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## EXHIBIT “A”



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December 2, 2010

Jerome Shestack  
Direct Dial 215-751-2290  
E-mail: jshestack@schnader.com

Bryan Aylstock, Esquire  
Aylstock, Witkin, Kreis & Overholtz PLLC  
55 Baybridge Drive  
Gulf Breeze, Florida 32561

Dear Bryan:

Now that the Avandia MDL cases you have been handling are settled, I would like to be on record with respect to my experience as Special Master with counsel in the case. I will report my comments to Judge Rufe.

I want to say at the outset, that as lead counsel for the plaintiffs in the Avandia litigation, you have been outstanding. Your preparation was extraordinary and in the arguments before me as Special Master, you were always clear, persuasive and with a remarkable depth of knowledge. Your rapport with other counsel was superlative.

The plaintiffs' could not have chosen a better lead counsel. I know the defendant's counsel had high respect for your ability and I believe that tempered their own advocacy which was always civil and reasoned.

Should the occasion arise where a Court wishes to have an affirmation of your ability, you are free to cite my observation.

With best wishes.

Sincerely,



Jerome Shestack

cc: The Honorable Cynthia M. Rufe

## EXHIBIT “B”

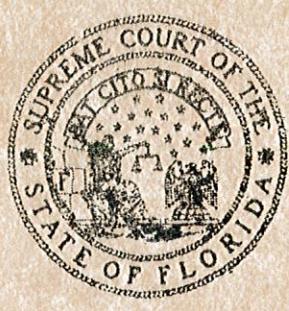
# Supreme Court of Florida

## Certificate of Good Standing

*I THOMAS D. HALL, Clerk of the Supreme Court of the State of Florida, do  
hereby certify that*

**BRYAN FREDERICK AYLSTOCK**

*was admitted as an attorney and counselor entitled to practice law in all the  
Courts of the State of Florida on May 10, 1996, is presently in good  
standing, and that the private and professional character of the attorney  
appear to be good.*



*WITNESS my hand and the Seal of the  
Supreme Court of Florida at Tallahassee,  
the Capital, this February 20, 2012.*

*BY: W.L. Murray  
Deputy Clerk*

*Clerk of the Supreme Court of Florida.*